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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Allen R. Friedman

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27171

7590

06/12/2008

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EXAMINER

POE, KEVIN T

ART UNIT

PAPER NUMBER

3693

MAIL DATE

DELIVERY MODE

06/12/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/666,979	<b>Applicant(s)</b> FRIEDMAN ET AL.	
	<b>Examiner</b> KEVIN POE	<b>Art Unit</b> 3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Amendment*

1. This Office Action is responsive to the amendment filed April 7, 2008, in which claims 1-25 were amended. Claims 1-25 are pending.

### *Response to Arguments*

2. Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-3, 5-7, 9-11, 15-16, 18, and claim 20-22** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Rudkin et al. US Pub. No. 2002/0023043 A1** in view of **Bell [US Pub No. 2006/0155621 A1]** and further in view of **Bodurtha et al. [US Patent No. 7,212,993 B1]**.

5. Regarding **claim 1**, Rudkin discloses a method for transfer of employee stock options without exercise of the stock options (Abstract, 0025), the method comprising: providing a plurality of option value prices, and determining a stock trading price corresponding to a particular one of the plurality of option value prices (0052). Rudkin discloses receiving an employee stock option corresponding to the particular one of the plurality of option value prices without exercising the employee stock option and providing a value corresponding to the particular one of the plurality of option value prices in exchange for receiving the employee stock option (0025, 0045).

Rudkin does not explicitly disclose amending the employee stock option without exercising the employee stock option. However Bell discloses due to the significant value of the stock options or LTIP after being exercised and the fact that the ownership of the Employer will change after the stock issuance, the Employer may desire to modify the terms of the Plan ("Modified Plan") to enable the Employer to take certain actions with regard to the outstanding, but unexercised, stock options, as well as other benefits. (Bell 0033). At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the disclosure of Rudkin to include the teachings of Bell to obtain invention as specified in claim 1. The rationale to combine the teachings would be for implementing a deferred compensation program.

Rudkin does not explicitly disclose transferring the amended stock option to a third party without exercising the amended stock option; and receiving a value corresponding to the amended stock option in exchange for transferring the amended stock option. However Bodurtha teaches disclose transferring the amended stock

option to a third party without exercising the amended stock option; and receiving a value corresponding to the amended stock option in exchange for transferring the amended stock option (Col. 3 lines 9-26 via transfer rights and col. 5 lines 1-5 ). At the time of the invention one would have been motivated to modify the disclosure of Rudkin to include the teachings of Bodurtha to obtain invention as specified in claim 1. The rationale to combine the teachings would be the receipt maintenance to insure that the transferal of rights hereunder is properly implemented.

6. Regarding **claim 2**, Rudkin discloses providing a plurality of option value prices uses an option pricing formula. (0056)

7. Regarding **claim 3**, Rudkin discloses wherein the option pricing formula is selected from the group consisting of Black-Scholes, binomial and trinomial methods. (0056, 0070, and 0137-0140)

8. Regarding **claim 5**, Rudkin discloses determining a stock trading price further comprises determining an average stock trading price over a predetermined period of time. (0110)

9. Regarding **claim 6**, Rudkin discloses providing a value further comprises: providing a first value to an employee; and providing a second value to the employee,

wherein the first and second values are provided at different times. (0012)

10. Regarding **claim 7**, Rudkin discloses determining an investment value corresponding to the second value; and providing the investment value to the employee with the second value. (0052)

11. Regarding **claim 9**, Rudkin discloses registering an offering of securities underlying the employee option. (0007)

12. Regarding **claim 10**, Rudkin discloses issuing the employee stock option. (0007)

13. Regarding **claim 11**, Rudkin discloses hedging the amended stock option. (0012 and 0135)

14. Regarding **claim 15**, Rudkin discloses an issuer of the employee stock option receives the employee stock option and provides the value. (Abstract and 0012)

15. Regarding **claim 16**, Rudkin does not explicitly disclose wherein an issuer of the employee stock option amends the employee stock option without exercising the employee stock option transfers the amended stock option without exercising the amended stock option and receives the value. However Bell discloses due to the significant value of the stock options or LTIP after being exercised and the fact that the

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ownership of the Employer will change after the stock issuance, the Employer may desire to modify the terms of the Plan ("Modified Plan") to enable the Employer to take certain actions with regard to the outstanding, but unexercised, stock options, as well as other benefits. (Bell 0033). At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the disclosure of Rudkin to include the teachings of Bell to obtain invention as specified in claim 16. The rationale to combine the teachings would be for implementing a deferred compensation program. However Bodurtha teaches discloses transferring the amended without exercising the amended stock option; and receives the value. (Col. 3 lines 9-26 via transfer rights and col. 5 lines 1-5). At the time of the invention one would have been motivated to modify the disclosure of Rudkin to include the teachings of Bodurtha to obtain invention as specified in claim 16. The rationale to combine the teachings would be the receipt maintenance to insure that the transferal of rights hereunder is properly implemented.

16. Regarding **claim 18**, this claim recites similar language as to claim 1 and is rejected on the same grounds.

17. Regarding **claim 20**, this claim recites similar language as to claim 1 and is rejected on the same grounds.

18. Regarding **claim 21**, this claim recites similar language as to claim 1 and is rejected on the same grounds.

19. Regarding **claim 22**, this claim recites similar language as to claim 1 and is rejected on the same grounds.

20. **Claim 4** is rejected under 35 U.S.C. 103(a) as being anticipated by **Rudkin [US Pub No. 200410199449 A1]** in view of **Bell [US Pub No. 200610155621 A1]** and **Bodurtha et al. [US Patent No. 7,212,993 B1]** and further in view of **Cohen et al. [US Pub No. 200210116310]**.

21. Regarding **claim 4**, Rudkin does not explicitly disclose providing a plurality of option value prices provides the plurality of prices in an option-price grid. However Cohen et al. discloses the portfolio grid and toolbar 900, 1000, 1100 has rows and columns which contain all the above referenced data, including real-time stock and option prices. (Cohen 0031)

At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the disclosure of Rudkin to include the teachings of Cohen et al. to obtain invention as specified in claim 4. The rationale to combine the teachings would be to allow investors to perform an automated comparative analysis of a limitless number of investment opportunities.

22. **Claim 8** is rejected under 35 U.S.C. 103(a) as being anticipated by **Rudkin [US Pub No. 200410199449 A1]** in view of **Bell [US Pub No. 2006/0155621 A1]** and



**Bodurtha et al. [US Patent No. 7,212,993 B1]** and further in view of **Muller [US Pub No. [2002/0010663 A1], Shields [US Pub No. 200210042771 A1], Lancaster et al. [US Pub No. 2002/0133456 A1], and Jones et al. [US Pub No. 2005/0004854 A1].**

23. Regarding **claim 8**, Rudkin does not explicitly disclose amending the employee stock option comprises: amending the maturity. However Muller discloses benchmark bonds are quoted as the underlying instrument of certain bond futures. When they approach maturity, they are replaced by another bond, but the quotes appear in the same, uninterrupted time series. The change of the maturity results in a value jump. (Muller 0451) At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the disclosure of Rudkin to include the teachings of Muller to obtain invention as specified in claim 8. The rationale to combine the teachings would be for filtering high frequency time series data.

Rudkin does not explicitly disclose amending the number of shares per option. However Shields discloses the administration system 6 may be updated with participant information, including adding new participants 10, modifying trading and vesting dates, revising the number of options and/or shares available for exercise and/or sale for each participant 10 in response to, for example, recently executed transactions, employer grant, expiration dates, or the like. (Shields 0068) At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the disclosure Rudkin to include the teachings of Shields to obtain invention as specified in claim 8. The rationale to combine the teachings would be for implementing employee stock plans.

Rudkin does not explicitly disclose amending the dilution protection. However Lancaster et al. discloses the idea underlying derivatives-based distribution is encapsulating the economic value of the distribution relationship in a derivative product, to provide dilution protection as control of the distribution chain is lost. (Lancaster 0124) At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the disclosure of Rudkin to include the teachings of Lancaster et al. to obtain invention as specified in claim 8. The rationale to combine the teaching would be to avoid dilution.

Rudkin does not explicitly disclose amending the dividend protection. However Jones et al. discloses referring bow to other issuer options, it is noted that Zero-put securities may have other modifications. For example, in the TUBZ structure, the dividend is typically floored at some minimum level (e.g., 1.0% of par value). This option gives the investor a small measure of protection against deterioration in the company's dividends. (Jones 0235) At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the disclosure of Rudkin to include the teachings of Jones et al. to obtain invention as specified in claim 8. The rationale to combine the teachings would be protection against loss of dividends.

24. **Claims 12-14** are rejected under 35 U.S.C. 103(a) as being anticipated by **Rudkin [US Pub No. 2004/0199449 A1]** in view of **Bell [US Pub No. 200610155621 A1]** and **Bodurtha et al. [US Patent No. 7,212,993 B1]** and further in view of **Sullivan et al. [2002/0194136 A1]**.

25. Regarding **claim 12**, Rudkin does not explicitly disclose hedging the amended stock option includes short selling of securities and/or futures contracts. However Sullivan et al. discloses financial institutions utilize listed options over the counter (OTC) for hedging strategies. (Sullivan 0009) At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the disclosure of Rudkin to include the teachings of Sullivan to obtain invention as specified in claim 12. The rationale to combine the teachings would be for hedging strategies in order to assist in organizing the hedging position.

26. Regarding **claim 13**, Rudkin does not explicitly disclose hedging the amended stock option includes buying and selling securities that underlie the amended stock option. However Sullivan et al. discloses financial institutions utilize listed options over the counter (OTC) for hedging strategies. (Sullivan 0009) At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the disclosure of Rudkin to include the teachings of Sullivan to obtain invention as specified in claim 13. The rationale to combine the teachings would be for hedging strategies in order to assist in organizing the hedging position.

27. Regarding **claim 14**, Rudkin does not explicitly disclose hedging the employee stock option includes buying and selling of securities that underlie the employee stock option to rebalance the hedge position without exercising the employee stock option. However Sullivan et al. discloses financial institutions utilize listed options over the

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counter (OTC) for hedging strategies. (Sullivan 0009) At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the disclosure of Rudkin to include the teachings of Sullivan to obtain invention as specified in claim 14. The rationale to combine the teachings for hedging strategies in order to assist in organizing the hedging position.

28. **Claims 17, 19, and 23-25** are rejected under 35 U.S.C. 103(a) as being anticipated by **Rudkin [US Pub No. 2004/0199449 A1]** in view of **Cohen et al. [US Pub No. 2002/0116310]**, **Muller [US Pub No. 200210010663 A1]**, **Shields [US Pub No. 2002/0042771 A1]**, **Lancaster et al. [US Pub No. 200210133456 A1]**, **Jones et al. [US Pub No. 200510004854 A1]**, and further in view of **Bodurtha et al. [US Patent No. 7,212,993 B1]**.

29. Regarding **claim 17**, Rudkin discloses a method for transfer of employee stock options without exercise of the stock options, the method comprising using an option pricing formula to provide a plurality of option value prices arranged in an option-price grid (0056). Rudkin discloses determining an average stock trading price over a predetermined period of time, the average stock trading price corresponding to a particular one of the plurality of option value prices (0110). Rudkin discloses receiving an employee stock option corresponding to the particular one of the plurality of option value prices without exercising the employee stock, the stock option corresponding to

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the particular one of the plurality of option value prices (0025, 0045). Rudkin discloses in exchange for receiving the employee stock option, providing a first value, a second value and an investment value to the employee, the first and second values corresponding to the particular one of the plurality of option value prices, the first value provided to the employee at a first time, the second value and the investment value provided to the employee at a second time. (0045)

Rudkin does not explicitly disclose amending the employee stock option, without exercise to modify: terms of the maturity. However Muller discloses benchmark bonds are quoted as the underlying instrument of certain bond futures. When they approach maturity, they are replaced by another bond, but the quotes appear in the same, uninterrupted time series. The change of the maturity results in a value jump. (Muller 0451) At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the disclosure of Rudkin to include the teachings of Muller to obtain invention as specified in claim 17. The rationale to combine the teachings would be for filtering high frequency time series data.

Rudkin does not explicitly disclose amending the number of shares per option. However Shields discloses the administration system 6 may be updated with participant information, including adding new participants 10, modifying trading and vesting dates, revising the number of options and/or shares available for exercise and/or sale for each participant 10 in response to, for example, recently executed transactions, employer grant, expiration dates, or the like. (Shields 0068) At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the disclosure Rudkin to

include the teachings of Shields to obtain invention as specified in claim 17. The rationale to combine the teachings would be for implementing employee stock plans.

Rudkin does not explicitly disclose amending the dilution protection. However Lancaster et al. discloses the idea underlying derivatives-based distribution is encapsulating the economic value of the distribution relationship in a derivative product, to provide dilution protection as control of the distribution chain is lost. (Lancaster 0124) At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the disclosure of Rudkin to include the teachings of Lancaster et al. to obtain invention as specified in claim 17. The rationale to combine the teaching would be to avoid dilution.

Rudkin does not explicitly disclose amending the dividend protection. However Jones et al. discloses referring bow to other issuer options, it is noted that Zero-put securities may have other modifications. For example, in the TUBZ structure, the dividend is typically floored at some minimum level (e.g., 1.0% of par value). This option gives the investor a small measure of protection against deterioration in the company's dividends. (Jones 0235) At the time of the invention it would have been obvious to one of ordinary skill in the art to modify the disclosure of Rudkin to include the teachings of Jones et al. to obtain invention as specified in claim 17. The rationale to combine the teachings would be protection against loss of dividends.

Rudkin does not explicitly disclose transferring the amended stock option to a third party without exercising the amended stock option; and receiving a value corresponding to the amended stock option in exchange for transferring the amended

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stock option. However Calvin discloses it is also well known that a business or company may establish a nonqualified stock option plan that awards certain investment advisors, service providers and other key personnel. However Bodurtha teaches disclose transferring the amended stock option to a third party without exercising the amended stock option; and receiving a value corresponding to the amended stock option in exchange for transferring the amended stock option (Col. 3 lines 9-26 via transfer rights and col. 5 lines 1-5 ). At the time of the invention one would have been motivated to modify the disclosure of Rudkin to include the teachings of Bodurtha to obtain invention as specified in claim 17. The rationale to combine the teachings would be the receipt maintenance to insure that the transferal of rights hereunder is properly implemented.

30. Regarding, **claim 19**, this claim recites similar language as to claim 17 and is rejected on the same grounds.

31. Regarding, **claim 23**, this claim recites similar language as to claim 17 and is rejected on the same grounds.

32. Regarding, **claim 24**, this claim recites similar language as to claim 17 and is rejected on the same grounds.

33. Regarding, **claim 25**, this claim recites similar language as to claim 17 and is rejected on the same grounds.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN POE whose telephone number is (571)272-9789. The examiner can normally be reached on Monday-Thursday 9:30am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on 571-272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James A. Kramer/  
Supervisory Patent Examiner, Art Unit 3693

ktp